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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,900	07/03/2001	Kevin Taylor	H0075/7076/REH	3612

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WOLF GREENFIELD & SACKS, PC  
FEDERAL RESERVE PLAZA  
600 ATLANTIC AVENUE  
BOSTON, MA 02210-2211

EXAMINER
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SORKIN, DAVID L

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 04/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/898,900

Applicant(s)

TAYLOR ET AL.

Examiner

David L. Sorkin

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) 14-16 and 27-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-13 is/are allowed.
- 6) ☐ Claim(s) 1-3, 5-7, 17-21, 25, 26 and 35 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/20/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. In the latest list of claims, received 27 February 2004, line 2 of claim 7 begins with a struck-through letter "a", though the claims is marked "(Previously presented).

This struck-through letter "a" should be omitted from any future claim list.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 17-21, 25 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

In the second-to-last line of claim 17, there is lack of antecedent basis for "said mixing means" (though "a mixer" is previously recited). It is unclear if section 112, sixth paragraph is being invoked.

In line 18 of claim 17, there is lack of antecedent basis for "said receptacle inlet".

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5-7 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 2,291,600 A in view of Miller (US 3,574,411). Regarding claim 1,

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GB ('600) discloses an apparatus comprising a receptacle (13 and in the alternative 11); a scale (14); a mixer (the "pre-mixing means" disclosed on page 6 and in the alternative 26); a transfer pipe (16) coupled with the receptacle via a valve (23); and a negative pressure pneumatic source (19) connected to said transfer pipe downstream of the valve. The valve is not explicitly disclosed to be a "rotary" valve. Miller ('411) teaches a rotary valve (see col. 1, lines 1-20). It is considered that it would have been obvious to one of ordinary skill in the art to have provided the apparatus of GB ('600) with a rotary valve as or in addition to valve 23, as taught by Miller ('411) because Miller ('411) explains that rotary valves are "in widespread use" for delivering particulate material and suggests use of a rotary valve in pneumatic conveying of particulate material (see col. 1, line 20). Regarding claim 2, one or more inlets communicate with the receptacle and can be used in the manner discussed in the claim (See Figs. 1 and 2). Regarding claim 3, the scale comprises load cells 14 and can be used in the manner discussed in the claim. Regarding claim 5, the rotary valve taught by Miller ('411) is motor driven (see col. 2, lines 14-15). Regarding claim 6, the mixer is capable of being used to blend palletized additives (see page 6, lines 5-11). Regarding claim 7, said transfer pipe is connected between said receptacle and an input of an asphalt mixing box (see Fig. 1). Regarding claim 35, GB ('600) discloses an apparatus including means for feeding one or more additives into a receptacle (see page 6, lines 13-22); means (14) for weighting each additive; means for mixing said additives in said receptacle into a blend (see page 6, lines 7-8); means for transferring said blend from said receptacle to a transfer pipe, said means for transferring including a valve (23); and means (19) for transporting said

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blend by applying negative pneumatic pressure to the transfer pipe downstream of the rotary valve. The valve is not explicitly disclose to be a "rotary" valve. Miller ('411) teaches a rotary valve (see col. 1, lines 1-20). It is considered that is would have been obvious to one of ordinary skill in the art to have provides the apparatus of GB ('600) with a rotary valve as or in addition to valve 23, as taught by Miller ('411) because Miller ('411) explains that rotary valves are "in widespread use" for delivering particulate material and suggests use of a rotary valve in pneumatic conveying of particulate material (see col. 1, line 20).

***Allowable Subject Matter***

6. Claims 8-13 are allowed.
7. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 17-21, 25 and 26 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

***Response to Arguments***

9. Some claims previously allowed are no longer allowed upon consideration of the IDS filed 20 October 2003.
10. Applicant's arguments are moot in view of the new grounds for rejection.

**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McIver (US 3,881,720) states that rotary valves are "well known in the art" for discharging particulate materials from contains (see col. 2, lines 53-57).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Sorkin

David L. Sorkin  
Examiner  
Art Unit 1723